

ASSEMBLY BILL

No. 867

Introduced by Assembly Member Swanson

February 17, 2011

An act to amend Sections 3001, 3009, and 3017 of, and to add Section 3025 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as introduced, Swanson. Elections: vote by mail ballots.

Under existing law, an application for a vote by mail ballot shall be made by a voter to an elections official having jurisdiction over the election between the 29th and 7th days prior to the election. Existing law permits an elections official to deliver a vote by mail ballot to the voter, the voter's spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same household as the voter, so long as the individual to whom the ballot is delivered signs a statement under penalty of perjury that contains the name of the voter and affirms that the person receiving the ballot is 16 years of age or older and is authorized to deliver the vote by mail ballot. Existing law permits a voter who is unable to return his or her vote by mail ballot due to illness or other physical disability to designate his or her spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same household as the voter to return the vote by mail ballot. Except in the case of a candidate or the spouse of a candidate, existing law prohibits a person returning another voter's vote by mail ballot from being a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization

at whose behest the individual designated to return the ballot is performing a service.

This bill would provide that an application for a vote by mail ballot must be received by the elections official between the 29th and 7th days prior to the election. The bill would authorize a voter to designate an authorized representative in writing to an elections official to receive, return, or both receive and return, that voter's vote by mail ballot. If a voter is unable to return his or her vote by mail ballot, this bill would authorize the voter to have his or her authorized representative return the ballot to the elections official regardless of whether his or her inability to return the vote by mail ballot is due to illness or physical disability.

This bill would, except for an authorized representative of a candidate or the spouse of a candidate, prohibit a voter's authorized representative from being a candidate or the spouse of a candidate, or a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, campaign committee of a candidate, or any other group or organization at whose behest the individual designated to receive the ballot, return the ballot, or both receive and return the ballot is performing a service.

Because the bill would change the duties of local elections officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3001 of the Elections Code is amended
- 2 to read:
- 3 3001. Except as provided in Chapter 3 (commencing with
- 4 Section 3200) and Sections 3007.5 and 3007.7, application for a
- 5 vote by mail ~~voter's~~ ballot shall be made in writing to *and received*
- 6 by the elections official having jurisdiction over the election

1 between the 29th and the 7th day prior to the election. The
2 application shall be signed by the applicant and shall show his or
3 her place of residence. ~~Any applications~~ *An application* received
4 by the elections official prior to the 29th day shall be kept and
5 processed during the application period.

6 SEC. 2. Section 3009 of the Elections Code is amended to read:

7 3009. (a) Upon receipt of ~~any a~~ vote by mail ballot application
8 signed by the voter that arrives within the proper time, the elections
9 official should determine if the signature and residence address
10 on the ballot application appear to be the same as that on the
11 original affidavit of registration. The elections official may make
12 this signature check upon receiving the voted ballot, but the
13 signature must be compared before the vote by mail voter ballot
14 is canvassed.

15 (b) If the elections official deems the applicant entitled to a vote
16 by mail ~~voter's~~ ballot, he or she shall deliver by mail or in person
17 the appropriate ballot. The ballot may be delivered to the applicant;
18 ~~his or her spouse, child, parent, grandparent, grandchild, or sibling,~~
19 ~~or a person residing in an authorized representative of the same~~
20 ~~household as the vote by mail voter applicant,~~ except that in no
21 case shall the ballot be delivered to an individual under 16 years
22 of age. The elections official shall deliver the vote by mail ballot
23 to the ~~applicant's spouse, child, parent, grandparent, grandchild,~~
24 ~~or sibling, or a person residing in authorized representative of the~~
25 ~~same household as the vote by mail voter applicant~~ only if that
26 person signs a statement attested to under penalty of perjury that
27 provides the name of the ~~applicant and his or her relationship to~~
28 ~~the applicant,~~ and affirms that ~~he or she~~ *the person receiving the*
29 *ballot* is 16 years of age or older; and is authorized by the applicant
30 to deliver the vote by mail ballot.

31 (c) (1) If the elections official determines that an application
32 does not contain all of the information prescribed in Section 3001
33 or 3006, or for any other reason is defective, and the elections
34 official is able to ascertain the voter's address, the elections official
35 shall, within one working day of receiving the application, mail
36 the voter a vote by mail voter's ballot together with a notice. The
37 notice shall inform the voter that the voter's vote by mail ~~voter's~~
38 ballot shall not be counted unless the applicant provides the
39 elections official with the missing information or corrects the
40 defects prior to, or at the time of, receipt of the voter's executed

1 vote by mail ~~voter's~~ ballot. The notice shall specifically inform
2 the voter of the information that is required or the reason for the
3 defects in the application, and shall state the procedure necessary
4 to remedy the defective application.

5 (2) If the voter substantially complies with the requirements
6 contained in the *notice provided by the elections official's notice*
7 *official*, the voter's ballot shall be counted.

8 (3) In determining from the records of registration if the
9 signature and residence address on the application appear to be
10 the same as ~~that~~ *those* on the original affidavit of registration, the
11 elections official or registrar of voters may use the duplicate file
12 of affidavits of registered voters or the facsimiles of ~~voter's~~ *voters'*
13 signatures, provided that the method of preparing and displaying
14 the facsimiles complies with law.

15 SEC. 3. Section 3017 of the Elections Code is amended to read:

16 3017. (a) ~~All~~ *A* vote by mail ~~ballots~~ *ballot* cast under this
17 division shall be voted on or before the day of the election. After
18 marking the ballot, the vote by mail voter shall do either of the
19 following: (1) return the ballot by mail or in person to the elections
20 official from whom it came or (2) return the ballot in person to
21 ~~any~~ *a* member of a precinct board at ~~any~~ *a* polling place within
22 the jurisdiction. However, a vote by mail voter who, ~~because of~~
23 ~~illness or other physical disability~~, is unable to return the ballot;
24 may designate ~~his or her spouse, child, parent, grandparent,~~
25 ~~grandchild, brother, sister, or a person residing in the same~~
26 ~~household as the vote by mail voter~~ *an authorized representative*
27 to return the ballot to the elections official from whom it came or
28 to the precinct board at any polling place within the jurisdiction.
29 The ballot must, however, be received by either the elections
30 official from whom it came or the precinct board before the close
31 of the polls on election day.

32 (b) The elections official shall establish procedures to ensure
33 the secrecy of ~~any~~ *a* ballot returned to a precinct polling place and
34 the security, confidentiality, and integrity of ~~any~~ personal
35 information collected, stored, or otherwise used pursuant to this
36 section.

37 (c) On or before March 1, 2008, the elections official shall
38 establish procedures to track and confirm the receipt of voted vote
39 by mail ballots and to make this information available by means
40 of online access using the county's elections division Internet Web

1 site. If the county does not have an elections division Internet Web
2 site, the elections official shall establish a toll-free telephone
3 number that may be used to confirm the date a voted vote by mail
4 ballot was received.

5 (d) The provisions of this section are mandatory, not directory,
6 and no ballot shall be counted if it is not delivered in compliance
7 with this section.

8 ~~(e) Notwithstanding subdivision (a), no vote by mail voter's~~
9 ~~ballot shall be returned by any paid or volunteer worker of any~~
10 ~~general purpose committee, controlled committee, independent~~
11 ~~expenditure committee, political party, candidate's campaign~~
12 ~~committee, or any other group or organization at whose behest the~~
13 ~~individual designated to return the ballot is performing a service.~~
14 ~~However, this subdivision shall not apply to a candidate or a~~
15 ~~candidate's spouse.~~

16 SEC. 4. Section 3025 is added to the Elections Code, to read:

17 3025. For purposes of this chapter, "authorized representative"
18 means a person who is designated in writing by a voter to the
19 elections official to receive, return, or both receive and return the
20 voter's vote by mail ballot. Except for an authorized representative
21 of a candidate or the spouse of a candidate, an authorized
22 representative shall not be a candidate or the spouse of a candidate,
23 or a paid or volunteer worker of a general purpose committee,
24 controlled committee, independent expenditure committee, political
25 party, campaign committee of a candidate, or any other group or
26 organization at whose behest the individual designated to receive
27 the ballot, return the ballot, or both receive and return the ballot
28 is performing a service.

29 SEC. 5. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.